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Paper No. 12

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TWIN OAKS OFFICE PLAZA  
477 NINTH AVENUE  
SAN MAREO CA 94402-1854

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**FEB 09 2006**

**OFFICE OF PETITIONS**

In re Application of	:	
Sunny Behl et al.	:	
Application No. 08/602,011	:	
Patent No. 5,673,029	:	DECISION ON PETITION UNDER
Filed: February 15, 1996	:	37 C.F.R. §1.28(C)
Issued: September 30, 1997	:	
Attorney Docket Number: BEHL1202	:	
Title: APPARATUS FOR COOLING A	:	
MEMORY STORAGE DEVICE	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR §1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR §1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR §1.28 is hereby accepted. The petition is **GRANTED** accordingly.

This file is being forwarded to Files Repository.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at <http://www.uspto.gov/web/forms/sb0123.pdf>.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay<sup>1</sup>. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the deficiency was intentional, Petitioner must notify the Office.



**Paul Shanowski**  
Senior Attorney  
Office of Petitions  
United States Patent and Trademark Office

cc: TOWNSEND AND TOWNSEND AND CREW, LLP  
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<sup>1</sup> See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).